

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In Re TERRORIST ATTACKS on  
SEPTEMBER 11, 2001

03 MDL 1570 (RCC)  
ECF Case

*This document relates to:*

*Federal Ins. Co. v. Al Qaida*, 03 CV 6978 (RCC)

*Kathleen Ashton v. Al Qaeda Islamic Army*, 02 CV 6977 (RCC)

**AFFIDAVIT OF MITCHELL R. BERGER**

1. I am a member of the law firm of Patton Boggs LLP, attorneys for Defendants SNCB Corporate Finance Ltd. and SNCB Securities Ltd. (collectively, “the SNCB English companies”) and am a member of the bar of this Court. I respectfully submit this Affidavit in support of the SNCB English companies’ consolidated motion to dismiss the *Ashton* and *Federal Insurance* actions. This Affidavit is based upon personal knowledge of the facts set forth herein.

2. The SNCB English companies have moved to dismiss with prejudice all claims in these actions for lack of personal jurisdiction (FRCP 12(b)(2)) and failure to state a claim upon which relief may be granted (FRCP 12(b)(6)), as more fully set forth in the Consolidated Memorandum of Law submitted herewith.

3. Exhibit 1 is a true and correct copy of the Declaration of Jorge Juco and accompanying exhibit, dated June 8, 2004, concerning SNCB Corporate Finance Ltd.

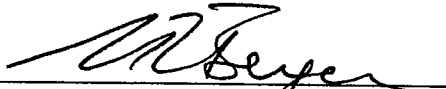
4. Exhibit 2 is a true and correct copy of the Declaration of Jorge Juco and accompanying exhibit, dated June 8, 2004, concerning SNCB Securities Ltd.

5. Exhibit 3 is a true and correct copy of the Declaration of Michael John Brindle and accompanying exhibits, submitted pursuant to Fed. R. Civ. P. 44.1, dated July 19, 2004.


6. Exhibit 4 is a true and correct copy of the RICO Statement Applicable to NCB Entities and accompanying exhibit, MDL Dkt. #354, filed in the *Federal Insurance* action on July 30, 2004.

7. Exhibit 5 is a true and correct copy of the Supplemental Declaration of Jorge Juco and accompanying exhibit, dated May 25, 2004, originally submitted in support of The National Commercial Bank's *Ashton* motion to dismiss.

WHEREFORE, for the reasons set forth in the accompanying Consolidated Memorandum of Law, and in Exhibits 1-5 hereto, the SNCB English companies respectfully request that the Court grant their motion to dismiss this action with prejudice, and grant such other and further relief as the Court deems just and proper.

  
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Mitchell R. Berger

Sworn to before me this 26<sup>th</sup> day of  
August 2004

  
\_\_\_\_\_  
Notary Public

Anne C. Stumpe  
Notary Public, District of Columbia  
My Commission Expires 12-14-2006

